

Title 6: Economic Development

Part 1: Financial Services

Part 1 Chapter 16: Motion Picture Production Tax Incentive Program

Rule 16.1 Purpose. There is a sales and use tax exemption available for a motion picture production company on purchases used in the production of a nationally distributed feature-length film, video, television series or commercial made in Mississippi. This does not include news or athletic events.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.2 Eligibility. This Motion Picture Incentive is a sales and use tax exemption that was created as an incentive for the motion picture industry to locate its production business in Mississippi. The exemption is for the purchase of production items used in the production of a motion picture project that has been certified by the Mississippi Development Authority (MDA). To be eligible for the exemption, the item(s) must be sold directly to, billed directly to, and paid for directly by the business receiving the exemption.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.3 Definitions.

A. Motion Picture: A nationally distributed feature-length film, video, television series or commercial. It does not include any sports or news coverage or film, video, television series or commercial containing any material or performance that is defined as obscene in Miss. Code Ann. Section 97-29-103.

B. Motion Picture Production Company: Any company engaged in the business of producing nationally distributed motion pictures, videos, television or commercials. The company producing the motion picture cannot have defaulted on any state loan or have declared bankruptcy where a state obligation had been discharged because of the bankruptcy.

C. Project: A production certified by MDA. To qualify, a project must be a nationally distributed feature length film, video, television series or commercial that is made (in whole or in part) in Mississippi for theatrical or television viewing.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.4 Items Used. The exemption covers items used on location such as:

- A. film;
- B. videotape;
- C. component building materials used in the construction of a set;
- D. makeup;
- E. fabric used as or in the making of costumers;
- F. clothing, including, shoes, accessories and jewelry used as wardrobes;
- G. materials used as set dressing;

- H. materials used as props on a set or by an actor;
- I. materials used in the creation of special effects;
- J. and expendable items purchased for limited use by grip, electric and camera department such as tape, fasteners and compressed air.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.5 Machinery Used. There is a reduced rate of one and one-half percent (1 ½%) on the purchase of machinery and equipment used in the production of a motion picture. Such equipment includes:

- A. editing equipment;
- B. audio equipment;
- C. lighting equipment;
- D. projection equipment;
- E. camera equipment;
- F. sound equipment;
- G. cables and computer equipment for use in the editing process, creation of special effects and for use in the graphic and animation process.

Manufacturing machinery used in the production of motion pictures is not required to be limited to plant site use only.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.6 Application. The motion picture company must apply to MDA to have their project certified by submitting a letter to the Mississippi Film Office that includes the following:

- A. Company name, address, phone and fax numbers;
- B. Company's local production office address, phone and fax numbers;
- C. Names of the Line Producer, Unit Production Manager and Production Accountant;
- D. Title of the production;
- E. Type of project (feature-length film, video, television series or commercial);
- F. Proposed dates of production, including start date of pre-production and completion date of principal photography;
- G. Copy of the script or synopsis;
- H. Intended plan for national distribution.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.7 Notification. MDA will notify the motion picture company of their acceptance by providing the following:

- A. Approval letter and MDA Board meeting minutes
- B. A certification number;
- C. Names and numbers of contacts;
- D. Required forms to be completed;
- E. General guidelines for participation in the program.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.8 Certification. To be certified as eligible for the exemption from MSTC, the business must submit the following:

- A. A completed Application for Certification for Economic Incentives, Form 70-801;
- B. A completed Registration Application, Form 70-001, for a use tax account (if one has not been assigned); and
- C. A completed Application for Direct Pay Permit for each project.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Rule 16.9 Direct Pay Permit. If the exemption is granted, then the Direct Pay Permit number should be furnished to all vendors so that the retail sales or use tax will not be charged. Any tax due on the purchase of items taxable at the reduced one-half percent (1 ½%) rate should be remitted directly to the Tax Commission using the use tax return. An expiration date will be given for the Direct Pay Permit issued for the specific project. After this date, the Direct Pay Permit would no longer be effective and the tax would be remitted to the vendor in the normal course of business. If a second project is planned, a new Direct Pay Permit will be required. Exemptions will not be given on any expenditure that is made prior to the certification date. Any tax paid to the vendor before the direct pay permit is issued and any tax paid in error after issuance of the direct pay permit must be refunded from the vendor.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2008)

Title 6: Economic Development

Part 1: Financial Services

Part 1 Chapter 16: The Mississippi Motion Picture Production Tax Incentive Program

Rule 16.1 Purpose. ~~There is a sales and use tax exemption available for a motion picture production company on purchases used in the production of a nationally distributed feature-length film, video, television series or commercial made in Mississippi. This does not include news or athletic events.~~ The Mississippi Motion Picture Incentive Program provides a cash rebate on eligible expenditures, payroll, and fringes. This program is available for nationally distributed motion pictures, television programs, DVDs, documentaries, short films, commercials for network or cable broadcast, video games, and stand-alone post production and includes animation, interactive media, 3D applications, cinematics, visual effects, and motion capture. National distribution includes theatrical, broadcast, direct to DVD/video, festival screening, streaming video, and internet delivery.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.2 Eligibility. Minimum Investment. ~~This Motion Picture Incentive is a sales and use tax exemption that was created as an incentive for the motion picture industry to locate its production business in Mississippi. The exemption is for the purchase of production items used in the production of a motion picture project that has been certified by the Mississippi Development Authority (MDA). To be eligible for the exemption, the item(s) must be sold directly to, billed directly to, and paid for directly by the business receiving the exemption.~~ There is a \$50,000 minimum Mississippi investment (local spend) per project. There is a \$10 million per project rebate cap. There is a \$20 million annual rebate cap. There is no minimum requirement for production days or percentage of production spend. At least 20% of the production crew on payroll must be Mississippi residents.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014).

Rule 16.3 Definitions. Utilization of Mississippi Motion Picture Incentive Program/Mississippi Film Logo. Utilization of the Mississippi Motion Picture Incentive Program must be acknowledged on screen, and a Mississippi Film logo must be included in the end credits. Graphic will be provided. Additionally, cities and/or counties where filming took place must be acknowledged.

~~A. Motion Picture: A nationally distributed feature length film, video, television series or commercial. It does not include any sports or news coverage or film, video, television series or commercial containing any material or performance that is defined as obscene in Miss. Code Ann. Section 97-29-103.~~

~~B. Motion Picture Production Company: Any company engaged in the business of producing nationally distributed motion pictures, videos, television or commercials. The company producing the motion picture cannot have defaulted on any state loan or have declared bankruptcy where a state obligation had been discharged because of the bankruptcy.~~

~~C. Project: A production certified by MDA. To qualify, a project must be a nationally distributed feature length film, video, television series or commercial that is made (in whole or in part) in Mississippi for theatrical or television viewing.~~

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

~~Rule 16.4 Items Used. Mississippi Investment Rebate. The exemption covers items used on location such as:~~

- ~~A. film;~~
- ~~B. videotape;~~
- ~~C. component building materials used in the construction of a set;~~
- ~~D. makeup;~~
- ~~E. fabric used as or in the making of costumers;~~
- ~~F. clothing, including, shoes, accessories and jewelry used as wardrobes;~~
- ~~G. materials used as set dressing;~~
- ~~H. materials used as props on a set or by an actor;~~
- ~~I. materials used in the creation of special effects;~~
- ~~J. and expendable items purchased for limited use by grip, electric and camera department such as tape, fasteners and compressed air.~~
- A. A production is eligible for a 25% rebate of their base investment (local spend) in Mississippi. The base investment is based on production expenditures in Mississippi. As a general rule, Mississippi spend is defined as expenditures made to companies based in Mississippi, including cast and crew non-payroll expenditures (i.e., per diems and housing allowances).
- B. Payments made for airfares directly related to the project in Mississippi where travel is to/from airports in Mississippi, Baton Rouge, New Orleans, Memphis, or Mobile are qualified spend only if reservations are made through a Mississippi-based travel agent or agency.
- C. The rental or purchase of equipment and production-specific goods and services is qualified spend only if secured in the following instances:
 - (i) directly from a Mississippi production company/vendor; or
 - (ii) through a Mississippi production company/vendor providing equipment rented from an out-of-state company or a Mississippi vendor regularly engaged in the business of providing specific goods and services (“like-for-like”), provided an industry standard mark-up has been added; or
 - (iii) from an out-of-state equipment company that has established a staffed local office or has contracted with a local representative in Mississippi. The motion picture production company must not supply any assistance or instruction to the local vendor in providing and/or securing any services or tangible personal property from out of state. Please note that all payments must be delivered to the vendor’s Mississippi location. Payments sent out of state, generally, are not eligible for the rebate.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

~~Rule 16.5 Machinery Used. Non-Resident Payroll and Fringes Rebate. There is a reduced rate of one and one-half percent (1 ½%) on the purchase of machinery and equipment used in the production of a motion picture. Such equipment includes:~~

- ~~A. editing equipment;~~
- ~~B. audio equipment;~~
- ~~C. lighting equipment;~~

- ~~D. projection equipment;~~
- ~~E. camera equipment;~~
- ~~F. sound equipment;~~
- ~~G. cables and computer equipment for use in the editing process, creation of special effects and for use in the graphic and animation process.~~

~~Manufacturing machinery used in the production of motion pictures is not required to be limited to plant site use only.~~

A production is eligible for a 25% cash rebate on payroll and fringes paid to non-resident cast and crew whose wages are subject to Mississippi income tax withholding and for that portion of their salary for the project up to and including \$5 million. For purposes of this program, payroll means salary, wages, or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld. Fringes mean costs paid by a motion picture production company for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits, and health insurance premiums. Payments to loan outs qualify if 5% Mississippi income tax is withheld.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.6 Resident Payroll and Fringes Rebate. A production is eligible for a 30% cash rebate on payroll and fringes paid to resident cast and crew whose wages are subject to Mississippi income tax withholding and for that portion of their salary for the project up to and including \$5 million. (The employee must live in Mississippi or maintain a permanent home here and spend more than 6 months each year in the state.) For purposes of this program, payroll means salary, wages, or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld. Fringes mean costs paid by a motion picture production company for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits, and health insurance premiums. Payments to loan outs qualify if 5% Mississippi income tax is withheld.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

~~*Rule 16.7 Notification.* MDA will notify the motion picture company of their acceptance by providing the following:~~

- ~~A. Approval letter and MDA Board meeting minutes~~
- ~~B. A certification number;~~
- ~~C. Names and numbers of contacts;~~
- ~~D. Required forms to be completed;~~
- ~~E. General guidelines for participation in the program.~~

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

~~*Rule 16.8 Certification.* To be certified as eligible for the exemption from MSTC, the business must submit the following:~~

- ~~A. A completed Application for Certification for Economic Incentives, Form 70-801;~~
- ~~B. A completed Registration Application, Form 70-001, for a use tax account (if one has not been assigned); and~~
- ~~C. A completed Application for Direct Pay Permit for each project.~~

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

~~*Rule 16.9 Direct Pay Permit.* If the exemption is granted, then the Direct Pay Permit number should be furnished to all vendors so that the retail sales or use tax will not be charged. Any tax due on the purchase of items taxable at the reduced one-half percent (1 ½%) rate should be remitted directly to the Tax Commission using the use tax return. An expiration date will be given for the Direct Pay Permit issued for the specific project. After this date, the Direct Pay Permit would no longer be effective and the tax would be remitted to the vendor in the normal course of business. If a second project is planned, a new Direct Pay Permit will be required. Exemptions will not be given on any expenditure that is made prior to the certification date. Any tax paid to the vendor before the direct pay permit is issued and any tax paid in error after issuance of the direct pay permit must be refunded from the vendor.~~

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.7 Honorably Discharged Veteran Payroll Rebate. A production is eligible for an additional 5% cash rebate on payroll paid to any member of the cast or crew who is an honorably discharged veteran of the United States Armed Forces.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.8 Stand-Alone Post and ADR/Voiceover/Recording Not Originated in Mississippi. Regarding stand-alone post and ADR/voiceover/recording for production not originated in Mississippi: the voiceover talent payroll rebate cannot be more than three (3) times the production spend for the session in Mississippi. (For example, if the total production spend, including all production payroll, is \$15,000, the rebate on the talent payroll cannot exceed \$45,000.) For more information or clarification, please contact the Mississippi Film Office.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.9 Sales and Use Tax Reduced Rates. In addition to the Mississippi Motion Picture Incentive Program, Mississippi offers a sales and use tax reduction on eligible rentals/purchases to encourage film production in the state. Production equipment and machinery used directly in the filming and/or editing of a project may be taxed at the reduced rate of 1.5%, as stated in Miss. Code Ann. Section 27-65-11 and Section 27-65-17. The following production equipment is eligible for this reduced rate:

- A. Audio equipment
- B. Camera equipment
- C. Editing equipment

- D. Lighting equipment
- E. Projection equipment
- F. Sound equipment
- G. Computer equipment used for animation, editing, or special effects

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.10. Registration with Mississippi Department of Revenue. A production must register for a use tax number and a Direct Pay Permit online through the Mississippi Department of Revenue website, www.dor.ms.gov, in order to access the reduced tax rate. All relevant Department of Revenue documents must be completed, submitted to the Department of Revenue, and approved by the Department of Revenue before sales and use tax reductions can be taken. A production may register immediately upon being approved into the Mississippi Motion Picture Incentive Program by the Mississippi Development Authority (MDA).

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.11 Application. ~~The motion picture production company must apply submit an application to the Mississippi Film Office/Mississippi Development Authority (MDA) to MDA to have their project certified by submitting a letter to the Mississippi Film Office that includes the following~~ Required with the application are:

- A. ~~Company name, address, phone and fax numbers;~~ The script and a one page synopsis (if a feature/television project), the storyboard (if a commercial) or the treatment (if a documentary).
- B. ~~Company's local production office address, phone and fax numbers;~~ The proposed budget.
- C. ~~Names of the Line Producer, Unit Production Manager and Production Accountant;~~
- D. ~~Title of the production;~~
- E. ~~Type of project (feature length film, video, television series or commercial);~~
- F. ~~Proposed dates of production, including start date of pre-production and completion date of principal photography;~~
- G. ~~Copy of the script or synopsis;~~
- H. ~~Intended plan for national distribution.~~

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.12 Name of the Production Company. The production company name on the application is the name that will be listed on the certificate issued by MDA. The production company name on the application and certificate must match the name to be used on production expenditures, billings, and invoices for those expenses to be eligible for the rebate, and the entity applying for the rebate must have the same Federal Tax ID Number as the entity that will incur and pay production costs.

- A. It is possible for a company to work under a “doing business as” name or DBA, but the entity on the application and the DBA must have the same Federal Tax ID Number; the dba cannot be a separate legal entity.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.13 Submission of Application. The application must be submitted before the beginning of production for the Mississippi portion of the project. It is suggested the application be submitted to the Mississippi Film Office at least one month prior to the start of pre-production.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.14 Application Review. The Mississippi Film Office and MDA's Financial Resources Division review the application for requisite information and determine whether it meets the program's requirements. Based on submitted budget information, the MDA establishes a maximum rebate figure at this time. The date the Film Office and Financial Resources Division complete review of the application and determine the production meets the program's requirements will be the eligibility date for all expenses related to the production. This date will be noted in a letter from the Film Office. Rebates will not be given on any expenditure made prior to the date on this letter.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.15 Public Announcement of Project. Once the production is prepared to publicly announce the project and has its funding in place, the production company must notify the Mississippi Film Office. The production then is placed on the agenda of a public meeting of the MDA Board for official MDA approval and is issued a certificate by MDA.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.16 Changes in Information Submitted in the Application. If any information submitted in the application changes, the production company must notify the Film Office; official MDA approval of a production company for the Mississippi Motion Picture Incentive Program is subject to the representations made by the production company in the application.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.17 Request for Upward Revision of Rebate. Any upward revision of the original rebate estimate must be requested in writing to the Mississippi Film Office and submitted prior to the completion of production in Mississippi. A revised budget must be submitted to substantiate the revision.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.18 Refund. Upon completion of the Mississippi portion of the project, the production company must supply the Mississippi Department of Revenue and the Mississippi Film Office with documentation to substantiate the rebate request. The Department of Revenue will provide sample templates for the submission of spend and payroll. Extensive documentation must be maintained and submitted during the rebate submission process. It is recommended that the Department of Revenue be contacted concerning proper rebate documentation practices before expenses are incurred. A link to the incentive book containing details of the rebate submission process can be found on the Department of Revenue website at www.dor.ms.gov.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.19 Audit by Mississippi Department of Revenue. The Mississippi Department of Revenue will audit the submission in house and will attempt to deliver a **first review** of the rebate request within 90 days after submission of all required and requested documentation.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.20 Nonpayment of Vendors. In the event the production company fails to pay vendors, employees, or independent contractors in a timely fashion, the audit and review process may be delayed until those issues are resolved.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.21 Additional Requirements.

- A. During pre-production, the production must submit to the Mississippi Film Office blank copies of the production's Certificate of Insurance, the Location Agreement, and any talent releases and crew deal memos. Other relevant forms may also be requested.
- B. No later than a week before the start of principal photography in Mississippi, the production must supply the Mississippi Film Office with the following information:
 - (i) Crew list
 - (ii) Cast list
 - (iii) Location list
 - (iv) Vendor list
 - (v) Day out of days
 - (vi) Shooting schedule
 - (vii) Shooting script
- C. Additionally, the director and deputy director of the Film Office must be added to the distribution list for all call sheets and all script revisions.
- D. Upon completion of production, final versions of the above lists must be submitted to the Film Office.
- E. These guidelines are only intended to summarize the Mississippi Motion Picture Incentive Program process. For additional information relating to the incentive application and to production in Mississippi, please contact the Mississippi Film Office at:
 - (i) 601-359-6564
bblack@mississippi.org
 - (ii) 601-359-3422
wemling@mississippi.org
- F. For Department of Revenue Guidelines and additional information and clarification relating to the rebate process, submission of spend and payroll, and eligible spend, please contact:
 - (i) Sam Portera
Mississippi Department of Revenue
601-923-7317
sam.portera@dor.ms.gov

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.22 Amendment/Waiver of the Guidelines. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of these guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State laws.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)